



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Stephen M. Haase

SUBJECT: SEE BELOW

DATE: May 13, 2004

COUNCIL DISTRICT: 3
SNI AREA: Delmas Park

SUBJECT: C04-019. DIRECTOR INITIATED-CONVENTIONAL REZONING FROM LI LIGHT INDUSTRIAL ZONING DISTRICT TO R-2 TWO-FAMILY RESIDENCE DISTRICT TO ALLOW RESIDENTIAL USES ON A 6.7 GROSS-ACRE SITE, LOCATED IN THE AREA GENERALLY BOUNDED BY PARK AVENUE TO THE SOUTH, WEST SAN FERNANDO STREET TO THE NORTH, LOS GATOS CREEK TO THE WEST, AND DELMAS AVENUE AND STATE ROUTE 87 TO THE EAST.

RECOMMENDATION

The Planning Commission voted 7-0-0 to recommend that the City Council approve the proposed rezoning.

BACKGROUND

On May 12, 2004, the Planning Commission held a public hearing to consider a Director initiated-conventional rezoning from LI Light Industrial to R-2 Two-Family Residence to allow residential uses.

The Director of Planning, Building and Code Enforcement recommended approval of the proposed rezoning.

One business owner in Delmas Park, Ed Castro, spoke in opposition to the project. He expressed concern that his property was at the edge of the rezoning boundary and asked whether his property could be left out of the proposed rezoning. He also asked if the rezoning would affect his legal nonconforming status.

One person who rented property and operated a business in the rezoning area, T. Jay Morris, asked whether the property would retain its legal nonconforming status if he bought the property.

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A member of the Delmas Park Neighborhood Association, Michael Coleman, spoke in favor of the project. Mr. Coleman stated that he regularly attended the Neighborhood Advisory Committee (NAC) meetings, wholeheartedly supported the rezoning and that the rezoning conformed with the goals of the Delmas Park SNI plan.

Commissioner Platten asked staff to explain the City's regulations and procedures related to legal non-conforming uses.

The City Attorney responded to Mr. Castro's concerns about the proposed rezoning. She stated that to not rezone Mr. Castro's property to R-2 Residential would perpetuate an inconsistency between the existing residential General Plan designation and the current light industrial zoning of the property. The City Attorney also responded to the speakers' issues regarding legal nonconforming status, and stated that existing uses which were established legally would be allowed to continue, even if they do not conform to the new R-2 Residential zoning district.

Planning staff addressed Mr. Morris' question regarding the purchase of a property containing a legal nonconforming use by stating that a transfer in ownership of a property does not affect the legal nonconforming status of that property. Planning staff recommended that both Mr. Morris and Mr. Castro confirm the legal nonconforming uses on their property and indicated that Planning staff could assist them with this determination.

The Planning Commission then closed the public hearing.

PUBLIC OUTREACH

A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site. In addition, the Planning Division's website contains information regarding the zoning process, the legal nonconforming use process, the Zoning Ordinance, and the *San José 2020 General Plan*. In addition, information on this proposed rezoning application, including staff reports and public hearing schedule, is also available. Staff has also made itself available to discuss the subject project on an individual meeting-basis with property owners and members of the public.

One property owner meeting was held for this project on March 25, 2004 in conjunction with the consideration of a companion rezoning, C04-020 in the southern part of the Delmas Park SNI area. Nine property owners were in attendance, including both owner occupants and absentee landlords. While a number of the participants verbally expressed support for the proposed rezonings, two participants were vocally opposed because they were concerned that rezoning their properties from LI Light Industrial to R-2 Residential Zoning districts would reduce the value and the flexibility of using and/or redeveloping their properties. It should be noted however, that these two individuals owned property in the site area for the proposed rezoning C04-020 and not in this subject area. Planning staff addressed all the questions and concerns brought up during the meeting.

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The proposed rezoning was also discussed with the Delmas Park NAC and other community members at the NAC's regular meetings on February 3, March 2, April 6 and May 4, 2004.

COORDINATION

As standard procedure in the development review process, this project was coordinated with the Santa Clara Valley Water District, Department of Public Works, Airport Department, Fire Department, Police Department, Environmental Services Department and the City Attorney. The project was also coordinated with the District 3 Council Office and the Redevelopment Agency.

STEPHEN M. HAASE
Secretary, Planning Commission